

Council Present:

Mike Anderson
Bob Hooker
A.J. O'Connell
Bill McCoy

Jack Gradle
Jean McKittrick
Jane Vincent

Staff Present:

Mark Shrives
Roberta Tharp
Layli Nichols
Shelley Humble
Ross Williamson
Steve Dobrinich

City Administrator
City Recorder
Finance Director
Airport Manager
City Attorney
RARE Intern

Council Absent: 0

Press: Creswell Chronicle (Mr. Olson was in attendance for the duration of the meeting
And Mrs. Olson entered the meeting at 7:45 PM.

Audience: 18

The regular scheduled City Council meeting was called to order by Mayor Bob Hooker at 7:00 PM.

Special Presentation – Lane County Sheriff's Department

Sgt. Doug Osborne was not able to be at the meeting this evening so Mark Shrives provided the Council with information on a grant opportunity. The Lane County Sheriff's Department has the opportunity to take part in an Oregon Justice Drug Grant. Mr. Shrives and Sgt. Osborne met to discuss using the grant for drug enforcement in Harry Holt Park by placing surveillance cameras in the park. Due to the increase of incidents and complaints of drug activity in the park, the grant would provide deterrence benefits, and detection of drug and other criminal activity. Mr. Shrives reported the grant would be handled by the County and there wouldn't be any matching funds the city would have to provide. Mr. Shrives asked the Council to provide him with discussion and feedback to determine if they would like him to continue moving forward with the project.

The Council gave their consensus for Mark Shrives to work with the county grant coordinator on the Oregon Justice Drug Grant and move forward with the placement of surveillance cameras in Harry Holt Park.

Correspondence

No comments were received regarding correspondence.

Public Forum

Jurgen Ramil residing at 32518 DeBerry Road, Creswell addressed the Council to speak in support of skydiving.

Kristopher Arens residing at 937 Odom Lane, Creswell addressed the Council to thank them for helping him address a parking issue in his neighborhood.

Dorothy Schick residing at 3565 Mill Street, Eugene, Oregon addressed the Council to present a signed petition asking the City to rescind the \$100,000 motion and find a judicial mediator to resolve FAA Part 16 Complaint.

Paul Preziose residing at 35787 Enterprise Road, Creswell addressed the Council to speak in support of the Council decision to defend the City in the FAA Part 16 Complaint.

Bruce Irwin residing at 262 Chimney Rock Lane, Eugene Oregon addressed the Council to introduce himself. Mr. Irwin is a professional grant writer for National Grant Services, LLC and would like to help out any way he can with the Cobalt Building Project.

Consent Calendar

Bill McCoy moved Jack Gradle seconded to approve the consent calendar as presented. Voted on and carried unanimously.

Airport

There were no Airport Agenda Items.

Public Works

There were no Public Works Agenda Items.

City Administration

Administrators Report – Mark Shrives

Mark Shrives reported he received an e-mail from the School District Superintendent Todd Hamilton asking to schedule a joint follow-up meeting from the November 7, 2011 meeting in regards to Willamalane Parks and Recreation District presentation. The tentative date for the follow-up meeting is scheduled for April 11, 2012 at the High School and Mr. Shrives will send an e-mail to the council as a reminder and verify the meeting time.

Mark Shrives updated the Council on the FAA Part 16 Complaint filed against the City by Urban Moore of Eugene Skydivers. Mr. Shrives said he was notified by Mr. Moore that he would be willing to enter into discussions regarding a mediated settlement to the complaint. Mr. Shrives asked Mr. Moore to have his attorney contact the City's attorney to discuss a process. When asked by the city's legal counsel, Mr. Moore's attorney would not agree to put a temporary hold on the litigation while the parties tried mediation. Mr. Shrives reported the City cannot proceed with mediation or negotiation unless the litigation is temporarily halted. The City's response to the FAA Part 16 complaint is due on March 19th, and while the city remains open to discussing the matter with Mr. Moore and his attorneys the City is committed to reaching a solution that protects the City, the citizens, the airport users and the public's safety.

Mr. Shrives said he has been receiving e-mail updates to the Airport online petition to rescind the motion to allocate \$100,000.00 to defend the City in the FAA Part 16 Complaint. Mr. Shrives has created and distributed to the Council a spreadsheet of the results to date. As of March 12, 2012 he has received eighty-one (81) signatures to the petition; of those signatures, nine people live within the Creswell Taxing District and eleven are airport tenants.

Mike Anderson asked Mark Shrives to clarify that even though some signers have a Creswell address, not all that do live within the Creswell taxing district.

A.J. O'Connell commented that a majority of the petitioners are out of the taxing district, but come into our community and support the business here.

Liquor License Application

Jack Gradle moved Mike Anderson seconded to approve the Liquor License for the Creswell Café as presented. Voted on and carried unanimously.

Pay Request – Nagao Pacific Architectural and Planning P.C. – Creswell City Hall 2nd Floor Project

Jean McKittrick moved Bill McCoy seconded that Council approve invoice #12-154 from Nagao Pacific Architectural and Planning PC in the amount of \$9,000.00 for services on the City Hall, 2nd Floor Project. The motion passes with Councilors Anderson, Gradle, McCoy, McKittrick and Mayor Hooker voting in favor and Councilors O'Connell and Vincent voting in opposition.

Rebid of City Hall Project – 2nd Floor

Mark Shrives has been working with architect Ken Nagao in re-evaluating the City Hall 2nd Floor Project bid. They have narrowed the scope of work down to the completion of the City Council chambers, the lobby area and the upstairs restroom. It is recommended to put the project out for rebid within the next thirty (30) days and they are expecting to see a reduction in the bids of approximately \$50,000.00 to \$60,000.00.

Jane Vincent said she feels we need to put the project on hold due to the cost of the attorney fees for litigation of the Part 16 Complaint filed by Urban Moore.

Mike Anderson asked if the City would be okay in regards to the budget if we move forward with this project. Mr. Shrives said the City Hall project was budgeted for in the original budget.

A. J. O'Connell said he does not feel the City needs to finish the Council Chamber at this time.

Bob Hooker moved Bill McCoy seconded to put the City Hall 2nd Floor project back out to bid within thirty (30) days. The motion passes with Councilors Anderson, Gradle, McCoy, McKittrick and Mayor Hooker voting in favor and Councilors O'Connell and Vincent voting in opposition.

A.J. O'Connell asked to have Mayor Hooker's consent to hear agenda items 9 B ii, iv, and vi (City Council Future Agenda Item Requests) to be heard out of order. He would like those three proposals to be heard by the Council before Resolution 2012-03 is voted on as he feels they are related to that particular resolution. After a review of the Council Rules, Mayor Hooker said he can either change the agenda but is not willing to at this time, or take a vote of the Council and if a majority of the Council would like to hear the proposals out of order, he will proceed with the Council's direction.

A.J. O'Connell moved Jane Vincent seconded that the Council consider agenda items 9 B ii, iv and vi before considering Resolution 2012-03 A Resolution Providing For An Interfund Transfer of Appropriations from the General Fund to the Airport Fund for the Purpose of Responding to Litigation filed by Eugene Skydivers in the Form of a Formal Part 16 Complaint With The Federal Aviation Administration.

Councilor McCoy excused himself from the meeting for a few minutes.

A.J. O'Connell said the three proposals are aimed at rescinding the litigation decision made in association with the Part 16 FAA Complaint. He feels it imperative to hear these before the Council makes a decision on Resolution 2012-03 that was handed out just prior to the meeting.

Voted on and the motion failed with Councilors O'Connell and Vincent voting in favor and Councilors Anderson, Gradle, McKittrick and Mayor Hooker voting in opposition. Councilor McCoy did not vote as he was out of the room and re-entered the meeting at this point.

Resolution 2012-03 A Resolution Providing For An Interfund Transfer of Appropriations from the General Fund to the Airport Fund for the Purpose of Responding to Litigation filed by Eugene Skydivers in the Form of a Formal Part 16 Complaint With The Federal Aviation Administration.

Jean McKittrick moved Mike Anderson seconded to approve Resolution 2012-03, a Resolution providing for an Interfund Transfer of Appropriations from the General Fund to the Airport Fund for the Purpose of Responding to Litigation filed by Eugene Skydivers in the Form of a Formal Part 16 Complaint with the Federal Aviation Administration as presented.

Mayor Hooker called for discussion. Councilor O'Connell urged the Council to postpone the passage of this resolution and explore all options before investing money into legal services for litigation.

Bill McCoy pointed out that the resolution is addressing appropriations, and Jack Gradle said the City needs to defend itself in the litigation.

Voted on and the motion passed with Councilors McCoy, McKittrick, Anderson, Gradle and Mayor Hooker voting in favor and Councilors O'Connell and Vincent voting in opposition.

Clerk's Report – A report was not given

**City Councilor Requests/Future Agenda Item
Previous Request**

City Councilors to Pay City Attorneys Fees – Mike Anderson

At the February 13, 2012 meeting the Council directed Mark Shrives to prepare a cost analysis for attorney charges to look into the Council's ability to charge a City Councilor for City Attorney fees when an investigation based on false accusations had been completed. Mr. Shrives reported the City Attorney would charge approximately \$700 to \$1,800 to perform the legal research in determining whether the City Council has the ability to charge attorney fees to an individual City Councilor. Once the research is completed, there would be additional costs to prepare a final report and draft any necessary documents.

A discussion ensued with Mike Anderson stating the whole purpose of this proposal is to make those who are making accusations become more aware of their actions and asking them to be more responsible. Mr.

Anderson said he doesn't want to spend more money on this proposal but feels there should be some accountability. Councilor McCoy suggested tabling the proposal to a later date to see if there are any other resolutions.

Jane Vincent commented that she just can't figure out why the council spent the money on an investigation without council consent. City Attorney Ross Williamson responded that appropriations are made by the Council in the budget, and the city administrator acting as the CEO of the City has the authority to make the expenditure for things such as that.

Mike Anderson asked the Council to table the proposal for a future meeting.

New Requests

Community Orchard – Mike Anderson

Mike Anderson proposed beginning a community orchard and garden if the city has property available for a project of this sort. Mr. Anderson said he would be willing to head the project and proposes to ask for donations for the purchase of trees, help care for the trees and garden and distribute the fruit and vegetables to the elderly and the community after harvest. He suggested including students from the high school to help harvest the fruit and would like Mark Shrives and Public Works Director Roy Sprout to check for any city property available where the Council could carry out this project.

A.J. O'Connell thinks the Community Orchard is a great idea and pointed out that the High School already has a community garden. They will be using student volunteers to nurture and grow the food for the Creswell Food Pantry. A.J. O'Connell suggested possibly working jointly with the High School on their project.

Jean McKittrick asked if this would come under the umbrella of Tree City USA. Mike Anderson said he didn't know at this time, but it would be nice.

Mike Anderson moved Jack Gradle seconded to move the Community Orchard Project forward for review and cost analysis. Voted on and carried unanimously.

Bringing forth a proposal from February 14, 2012 Special Meeting – A.J. O'Connell

A.J. O'Connell's proposal claims proper procedures were not followed at the February 14, 2012 meeting as per Resolution 2011-19, A Resolution Establishing Council Rules and Rescinding Resolution 2011-07, A Resolution Establishing Council Rules.

Mark Shrives included a memo in the Council packet explaining the agenda item request violates Council Rules. The memo states that the Council can reconsider prior actions, but only in compliance with Council Rule 5.16. Council Rule 5.16 provides "A Councilor who votes on the prevailing side of a motion may move for reconsideration of any vote. This motion must occur during the meeting or at the very next scheduled Council Meeting." At the February 14, 2012, A.J. O'Connell voted in opposition of giving Mark Shrives and the City's legal counsel the authority to continue working with Aviation Attorney Mr. Reimer and his law firm Kaplan, Kirsch and Rockwell to vigorously defend the FAA Part 16 complaint provided that the cost of the defense does not exceed \$100,000.00. The memo also states that the February 14th meeting was not a regular meeting but a special meeting that was properly noticed and the agenda was prepared by the City Administrator and complied with Council Rules as well as state law. The memo also reports that Mark Shrives has verified with the City's attorney that there isn't any legal requirement to take action by ordinance or resolution, a motion was sufficient. It is also confirmed that this particular decision did not require a public hearing, public comment or prior notice of the specific proposal that was up for consideration.

Bob Hooker asked City Attorney Ross Williamson if Mr. Shrives memo is correct and Mr. Williamson said it looks correct to him.

Councilor O'Connell said this proposal is for the maker of the motion to recant or retract the original motion and reintroduce it. Mr. O'Connell went on to say staff did a very good job at noticing the special meeting, but the proposal to spend \$100,000.00 was not on the printed agenda, and we should allow the public have a say at every step of the way.

Bob Hooker asked Mr. Williamson if the Council had broken any rules and he responded in his opinion the Council did not violate any rules. Mr. Hooker stated he is not willing to retract his motion.

Mandatory Reporting Ordinance – A.J. O’Connell

A.J. O’Connell proposed the creation of an Ordinance requiring all city staff and employees, members of the City Council and Mayor to be mandatory reports of abuse of the following population: children less than 18 years of age; adults with mental illness; adults with developmental disabilities; elderly and individuals in nursing facilities.

Mark Shrives included in the Council packet a copy of House Bill 4016 which references Mandatory Reporting and e-mail correspondence he received from Dunny Sorenson, Senior Risk Management Consultant for City County Insurance Services addressing questions proposed to him by Mr. Shrives concerning liability should the council move forward with the mandatory reporting ordinance.

A.J. O’Connell presented his proposal to the Council stating that those who work closely with people that may be at risk for abuse should be mandatory reporters, but anyone can be a reporter. The responsibility of a mandatory reporter is if you see something, say something. Since the City is working on nurturing a partnership with Willamalane Parks and Recreation District, Mr. O’Connell feels there may be the possibility of contact with children.

Dunny Sorenson’s email discussed whether or not required mandatory reporting by staff, employees and City Council may create liability problems.

- The state bill places reporting requirements on those who work closely with the population who is vulnerable. City Staff and officials briefly interact with that population and would not be in a position to spot any abuse.
- If a Creswell Official failed to report an abuse situation under the Mandatory Reporting Ordinance, it would be a violation of the municipal ordinance, not state law.
- Under state law, those who are mandatory reporters receive extensive training to spot abuse. The city would need to provide ongoing training and monitoring.
- If an Ordinance were created and a suit filed against the city for failing to make an abuse report, it would be very unlikely that a liability verdict would be entered, however people can and do file lawsuits for most anything.

Mr. Hooker then gave each Councilor the opportunity to comment on the Ordinance Proposal.

- Jack Gradle – Wants the City Attorney to approve the Ordinance at Councilor O’Connell’s expense before it is presented to the Council.
- Mike Anderson – He feels very strong about protecting the children of our community. He was personally involved in a situation that convicted someone and said if you accuse a person of abuse and that party is not guilty, you would be held liable. At this time Councilor Anderson is not willing to move this proposal forward.
- Jean McKittrick – The schools and churches already have these rules in place. During her career as a health care professional, she was a mandatory reporter. She doesn’t think it appropriate for the City Council and city staff to have to report someone. How many mothers are going to bring their battered and abused child into City Hall to pay a water bill?
- Bill McCoy – thinks without the training he cannot support this proposal.
- Jane Vincent thinks it would be a big step in helping the schools to take care of the children. This proposal would be sending a message out to the parents that the Council cares about what happens to the children.
- Bob Hooker said he is not in support of the proposal due to the liability it could put on someone and the City, and the cost of training.

Mark Shrives reported he has talked to Todd Hamilton, Creswell Superintendent of Schools who told him that School Board Members are not Mandatory Reporters only the employees.

A.J. O’Connell moved Jane Vincent seconded the proposal for creation of an Ordinance requiring all city staff, employees, members of the City Council, Mayor to be mandatory reporters of abuse for the following population for children under 18, adults with mental illness, adults with developmental disabilities, elderly, and individuals in nursing facilities be forward on to city staff for a cost analysis. The motion failed with Councilors Anderson, Gradle, Hooker, McCoy and McKittrick voting in opposition and Councilor O’Connell and Vincent voting in favor.

Mediation on FAA Part 16 Complaint – Jane Vincent

Jane Vincent proposed to utilize the services of the many individuals and organizations that have offered to assist in mediation of the FAA Part 16 Complaint.

Bob Hooker pointed out that earlier in the meeting; the Council learned that Mr. Moore's attorney is not willing to withdraw the FAA Part 16 Complaint to enter into mediation.

Jane Vincent proposed to change her original proposal and restate it to request the Council have an executive session at the April meeting in order to receive an update from the attorney on the FAA Part 16 Complaint and talk about the City's options. The Council gave their consensus for an executive session to be scheduled in April.

Mediation for Council and Mayor – Jane Vincent

Jane Vincent proposed that the City Council bring in a mediator to resolve the dysfunctional conflict amongst Council and Mayor.

Jane Vincent said the reason she is proposing a mediator is because she feels the Council needs to learn how to communicate with each other, learn respect for each other and have a willingness to work together.

Bob Hooker said he could ask Mark Shrives to coordinate with League of Oregon Cities to bring in some council training if she was willing to go that route.

Bob Hooker polled the council and the majority of them were in favor of training over mediation.

Jane Vincent moved A.J. O'Connell seconded to have Mark Shrives bring a cost analysis for council training from the League of Oregon Cities back to the council in April. The motion passes with Councilors Anderson, Gradle, McCoy, O'Connell, Vincent and Mayor Hooker voting in favor and councilor McKittrick voting in opposition.

Rescind the motion on February 14, 2012 – Jane Vincent

Jane Vincent proposed to rescind the motion made at the February 14, 2012 meeting regarding the expenditure of \$100,000 for legal expenses for the FAA Part 16 Complaint. Mark Shrives included a memo in the Council packet explaining the agenda item request violates Council Rules. The memo states that the Council can reconsider prior actions, but only in compliance with Council Rule 5.16. Council Rule 5.16 provides "A Councilor who votes on the prevailing side of a motion may move for reconsideration of any vote. This motion must occur during the meeting or at the very next scheduled Council Meeting." At the February 14, 2012, Jane Vincent voted in opposition of giving Mark Shrives and the City's legal counsel the authority to continue working with Aviation Attorney Mr. Reimer and his law firm Kaplan, Kirsch and Rockwell to vigorously defend the FAA Part 16 complaint provided that the cost of the defense does not exceed \$100,000.00.

Jane Vincent said there is a big difference between rescind and reconsider. Bob Hooker said he is not going to rescind the original motion as pointed out earlier in the meeting. Jane Vincent asked to withdraw the proposal.

Upcoming Meetings

- March 14, 2012 – Quarterly Airport Commission Meeting, 6:30 PM, Community Center
- End of March (TBD) – Citizen Involvement Committee – Comp Plan Update
- April 9, 2012 – Regular City Council Meeting

Adjournment

There being no further business to come before the council, Mayor Robert Hooker adjourned the meeting at 8:13 PM.


Roberta J. Sharp, City Recorder


Robert A. Hooker, Mayor